

Appl. No. 09.863,223
Amdt. dated August 6 2003
Reply to Office action of June 11 2003

REMARKS/ARGUMENTS

In responding to our rebuttal of his first rejection, Examiner transformed his 102 rejection into a 103 rejection citing Ex parte Wu 10 USPQ 2031. This, of course, is a case cited in MPEP 2144.04 II A. In that section of the MPEP it is stated that "omission of an element and its function is obvious if the function of the element is not desired." In section 2144.04 II B it is further stated that "Omission of an element with retention of the element's function is an indicia of unobviousness".

Both the present invention and Tsai provide solutions to the same problem, namely how to keep fluoride ions in FSG from appearing at the surface of the FSG. The present invention solves the problem by depositing a layer of USG over the FSG to act as a 'sponge' for absorbing said ions while Tsai solves it by placing an etch stop layer on the surface of the FSG.

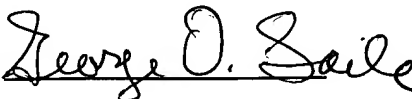
The present invention is therefore not obvious (under 2144.04 IIA) relative to Tsai because, although we continue to desire the function that Tsai's etch stop layer provides, we have found a way to manage without it. So, although we have removed Tsai's etch stop layer, we have retained its function by providing a USG layer in its place. As discussed supra, this renders our claim 1 unobvious with respect to Tsai..

Additionally, we believe that our solution to the problem solved by Tsai, is superior to Tsai's because Tsai's etch stop layer can be expected to have a higher dielectric constant than our USG layer initially and, furthermore, the dielectric constant of our USG layer can be expected to decrease over time as fluoride ions dissolve in it.

Applicant therefore respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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By 

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